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Jon E. Badenell

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EXAMINER

EKPO, NNENNA NGOZI

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/690,936	Applicant(s) BADENELL, JON E.	
	Examiner Nnenna N. Ekpo	Art Unit 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, 8 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) 1, 6, 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7, 8 and 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/20/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The reference listed in the Information Disclosure Statement filed on August 20, 2008 has been considered by the examiner (see attached PTO-1449 form).

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/20/2008 has been entered.
3. This Office Action is responsive to the RCE and Amendment filed on 08/20/2008. Accordingly, claims 12, 16, 18 and 19 are currently amended.
4. Applicant's arguments with respect to claims 2-5, 7-8, 11-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. **Claims 3, 5, 7-8, 11, 16-21 and 23-24** are rejected under 35 U.S.C. 102(b) as being anticipated by Zereski, Jr. et al. (U.S. Patent No. 5,654,886).

Regarding **claim 16**, Zereski, Jr. et al. discloses a method for creating a video program, wherein the video program comprises a plurality of video segments and a plurality of audio segments, comprising:

providing a plurality of audio recordings, wherein each audio recording corresponds to a particular condition and a particular speaker (see col. 3, lines 65-col. 4, line 18);

receiving a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment, the recently recorded video segment and the recently recorded audio segment featuring a selected speaker (see col. 4, lines 12-18, lines 37-45);

receiving data related to a plurality of conditions (see col. 4, lines 7-11, figs 6 and 7); and

receiving a request for the video program from a remote device via a network, wherein the request specifies a selected condition (see col. 7, lines 54-col. 8, line 13); and

in response to receiving the request:

using at least the data related to the selected condition to create a new video segment having new content (see col. 8, lines 14-16, fig 8);

using at least one of the audio recordings that corresponds to the selected condition and the selected speaker to create a new audio segment (see col. 8, lines 16-20, fig 8);

associating the new audio segment with the new video segment (see col. 8, lines 14-20); and

combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the video program (see col. 8, lines 53-63).

Regarding **claim 3**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 16*). The method wherein the request for the video program includes a location parameter, and wherein the data is related to a location that corresponds to the location parameter (see col. 7, lines 66-col. 8, lines 13, fig 6-7).

Regarding **claim 5**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 16*). The method wherein the selected condition corresponds to a weather condition (see col. 8, lines 28-31).

Regarding **claim 17**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 16*). The method wherein the recently recorded video segment and the recently recorded audio segment include content directed to a time (7:30 am EST) and location (Washington D.C.) (see fig 7).

Regarding **claim 18**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 16*). The method wherein the video program is transmitted to the remote device via the network (see col. 2, lines 21-28, col. 7, lines 54-61).

Regarding **claim 19**, Zereski, Jr. et al. discloses a method for creating a plurality of distinct video programs, comprising:

receiving a plurality of requests from a plurality of remote devices via a network for the distinct video programs, wherein each request specifies a condition (see col. 2, lines 22-29, col. 5, lines 33-39);

for each of the requests, creating the requested video program by (see col. 5, lines 55-62):

selecting a recently recorded video segment and a recently recorded audio segment associated with the recently recorded video segment that is relevant to the request, wherein the recently recorded video segment and the recently recorded audio segment both feature a selected speaker (see col. 7, lines 66-col. 8, line 27, fig 6);

receiving data that is relevant to the condition specified by the request (see col. 8, lines 28-31);

using the data relevant to the condition specified to create a new video segment having new content (see col. 8, lines 28-41);

selecting one or more audio recordings that correspond to the selected speaker and to the received data (see col. 2, lines 8-21);

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using the selected one or more audio recordings to create a new audio segment (see col. 2, lines 18-21);

associating the new audio segment with the new video segment (see col. 2, lines 18-21); and

combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment to create the requested video program (see col. 8, lines 53-63); and

delivering the requested video programs to the remote devices (see col. 4, lines 65-col. 5, line 3, col. 7, lines 54-col. 8, line 7).

Regarding **claim 7**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method wherein the selected condition corresponds to a weather condition (see col. 8, lines 28-31).

Regarding **claim 8**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method wherein the recently recorded video segment (fig 8 (140)) corresponds to a particular time period (see fig 8, col. 6, lines 48-56).

Regarding **claim 11**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method wherein at least one of the requests for the video programs include a location parameter (Boston weather), and wherein the data is

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related to the location that corresponds to the location parameter (see fig 8, col. 6, lines 48-56).

Regarding **claim 20**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method wherein each request is associated with a different requestor (image requester, forecast requester, text requester) and wherein delivering the requested video programs comprises delivering each of the requested video programs to the associated requestor (see fig 3, col. 5, lines 33-col. 6, line 9).

Regarding **claim 21**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 20*). The method wherein the requestor is an end user (see col. 2, lines 11-13).

Regarding **claim 23**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method further comprising storing the new video segment (see col. 3, lines 30-32, col. 4, lines 46-51).

Regarding **claim 24**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). The method wherein the data is non-video data (see fig 3 (70, 68)) (fig 7 (136)).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 2, 4, 12-15 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zereski, Jr. et al. (U.S. Patent No. 5,654,886) in view of Inoue et al. (U.S. Publication No. 2002/0016963).

9. Regarding **claim 12**, Zereski, Jr. et al. discloses a system for creating a video program comprising:

a plurality of converters (see fig 1 (10, 12, 14, 16)), wherein a first converter (see fig 1 (14)) receives a data input that includes data related to a plurality of conditions (cloudy, sunny etc.) (see col. 3, lines 25-29) and creates a new video segment having new content based on selected data that corresponds to a selected condition (see col. 5, lines 11-22);

a linear frame buffer (see fig 3 (asset assembler, 80)) for assembling frames from the first video segment and frames from the new video segment to create the video program (see col. 6, lines 10-15), wherein the frames from the new video segment correspond to the selected condition and wherein the selected condition is received from a remote device via a network (see col. 2, lines 22-29, col. 6, lines 35-62);

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an audio database that stores a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker (see col. 3, lines 65-col. 4, line 18); and

wherein the system creates a new audio segment that includes at least one of the audio recordings that corresponds to the selected condition and the selected speaker and synchronizes the new audio segment to the new video segment (see col. 4, lines 52-col. 5, line 3, col. 7, lines 42-44).

However, Zereski, Jr. et al. is silent on a plurality of decoders supporting a plurality of encoding schemes, wherein a first decoder receives a first video input and decodes the first video input; and a plurality of encoders for receiving the video program and encoding the video program.

Inoue et al. discloses a plurality of decoders (see fig 1 (8, 10)) supporting a plurality of encoding schemes, wherein a first decoder receives a first video input and decodes the first video input (see paragraph 0081, lines 10-14); and

a plurality of encoders (see fig 1 (2, 4)) for receiving the video program and encoding the video program (see paragraph 0080, lines 6-9, lines 21-26).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Zereski, Jr. et al.'s invention with the above mentioned limitation as taught by Inoue et al. in order to keep secrecy of the information.

Regarding **claim 13**, Zereski, Jr. et al. and Inoue et al. discloses everything claimed as applied above (*see claim 12*). Zereski, Jr. et al. discloses the system further comprising a video database for storing the new video segment (see col. 3, lines 30-32, col. 4, lines 46-51).

Regarding **claim 14**, Zereski, Jr. et al. and Inoue et al. discloses everything claimed as applied above (*see claim 12*). Zereski, Jr. et al. discloses video input from a database (see col. 3, lines 30-32, col. 4, lines 46-51).

Inoue discloses a first decoder (see fig 1 (8)).

Regarding **claim 15**, Zereski, Jr. et al. and Inoue et al. discloses everything claimed as applied above (*see claim 12*). Zereski, Jr. et al. disclose the first video input is in real-time (see col. 3, lines 32-36).

Inoue discloses a first decoder (see fig 1 (8)).

Regarding **claim 2**, Zereski, Jr. et al. disclose everything claimed as applied above (*see claim 16*). However, Zereski, Jr. et al. fail to specifically disclose encoding the video program using an encoding scheme that corresponds to the encoding parameter.

Inoue et al. discloses the method wherein the request for the video program includes an encoding parameter, further comprising:

encoding the video program using an encoding scheme that corresponds to the encoding parameter (see paragraph 0080, lines 6-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Zereski, Jr. et al.'s invention with the above mentioned limitation as taught by Inoue et al. in order to keep secrecy of the information.

Regarding **claim 4**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 16*). Zereski, Jr. et al. disclose combining the recently recorded video segment and the recently recorded audio segment with the new video segment and the new audio segment (see col. 8, lines 53-63).

However, Zereski, Jr. et al. fails to specifically disclose the method wherein the recently recorded video segment is encoded, further comprising: decoding the recently recorded video segment.

Inoue et al. discloses the method wherein the recently recorded video segment is encoded (see paragraph 0080, lines 6-9, lines 21-26), further comprising:

decoding the recently recorded video segment (see paragraph 0081, lines 10-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Zereski, Jr. et al.'s invention with the above mentioned limitation as taught by Inoue et al. in order to keep secrecy of the information.

Regarding **claim 25**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 19*). However, Zereski, Jr. et al. fails to specifically disclose the method further comprising: receiving an encoded video segment; decoding the encoded video segment to obtain one of the recently recorded video segments; and encoding at least one of the requested video programs prior to delivering the at least one requested video program, wherein the decoding scheme used to decode the encoded video segment is independent of the encoding scheme use to encode the at least one requested video program.

Inoue et al. discloses receiving an encoded video segment (see paragraph 0080, lines 6-9);

decoding the encoded video segment to obtain one of the recently recorded video segments (see paragraph 0081, lines 10-14); and

encoding at least one of the requested video programs prior to delivering the at least one requested video program (see paragraph 0084, lines 1-13),

wherein the decoding scheme used to decode the encoded video segment is independent of the encoding scheme use to encode the at least one requested video program (see paragraph 0081, lines 10-18).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Zereski, Jr. et al.'s invention with the above mentioned limitation as taught by Inoue et al. in order to keep secrecy of the information.

10. **Claim 22** is rejected under 35 U.S.C. 103(a) as being unpatentable over Zereski, Jr. et al. (U.S. Patent No. 5,654,886) as applied to *claim 20* above, and further in view of Schwoegler (U.S. Publication No. 2004/0010372).

Regarding **claim 22**, Zereski, Jr. et al. disclose everything claimed as applied above (see *claim 20*). However, Zereski, Jr. et al. fail to specifically disclose as to wherein the requestor is a server.

Schwoegler discloses wherein the requestor is a server (see paragraph 0115, lines 5-11).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Zereski, Jr. et al.'s invention with the above mentioned limitation as taught by Schwoegler for the advantage of requesting weather conditions.

Citation of Pertinent Prior Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Johnson et al. (U.S. Patent No. 6,961,061) discloses a system and method for generating a realistic weather forecast visualization.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-

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1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna N. Ekpo/
Patent Examiner
December 16, 2008.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425

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